1944. **File No.** O. War Injuries (Comp.) Insurance

Legal Department - 44

A BRANCH

K

Subject:— Opinions under the War Injuries (Compensation Insurance) Act, 1943.

E 1-5

File No. O. War Injuries

Gen. 191 e (Comp.) Insurance/44

195-A

C O N T E N T S.

Legal Department File No.O.War Injuries (Comp.) Insurance/44.

Sr. No.	Compilation No.	Subject.	Pages.
1	O.M. 1282 17-2-44	War Injuries (Comp. Ins.) Act, 1943.- Sec 2(b)- Taking out Ins. Policy by every employer or workmen.	1-3
2	O.M.6745 29-3-44	Whether Govt. is liable to any contribution towards premium for the premises occupied.	5-7.

MMB.
9.7.

9/7

R.I.No.1316
14-2-1944

Submitted.

Please see R.D. office note at p.7 ante. It appears that the Chairman of Ahmednagar Association has been directed by the General Manager, Govt.Agent, New IndianAssurance Co., Ltd., Bombay, to effect insurance on behalf of his Association under the War Injuries (Compensation Insurance) Act, 1943. The Director of Industries states that this association as well as that at Hubli fall under clause (j) of 2 of the Factories Act, 1934 and are liable for insurance. R.D. is of the view that though the plants of Ahmednagar and Hubli are Govt. property, they were handed over to the District Industrial Coop. Association for operation and management and hence they fall within the purview of section 2(b) of the War Injuries (Com.Insurance) Act, 1943 and are required to take our policies of insurance under section 7(1). The A.L.A. is requested to advise whether this view is correct and to treat the case as very urgent in view of para.4 of the Director's letter.

2. Under section 9(1) of the War Injuries (Compensation Insurance) Act, 1943, every employer of workmen to whom this Act applies or is subsequently made applicable has to take out a policy of insurance in accordance with the War Injuries Compensation Scheme put into operation by the Central Govt. "Employer" as defined bysection 2(b) includes "any body of persons whether incorporated or not and any managing agent of an employer and the legal representatives of a deceased employer etc." "Workman" is defined bysection 2(j) to mean "any person.....who is employed in any of the employments specified in section 6." The workmen to whom this Act applies are inter alia those who are employed in a factory as defined in clause (j) of section 2 of the Factories Act,

1934 (cf. section 6(b)). As the two finishing plants at Ahmednagar and Hubli are factories within the meaning of section 2(j) of the Factories Act, 1934 (pl.see p.2 ante) the employers will have to take out policies of insurance in accordance with the War Injuries Compensation Scheme. The finishing plants with all their equipments and sheds were handed over to the Dist. Industrial Coop. Associations for operation and mangement by G.R.,R.D.No.6421/39, dated 16-10-41. Although therefore the ownership in both these plants vests in Govt. the associations who are managing the same must be considered to be the employers. The two associations will therefore have to take out insurance policies under the Act. The view taken by the R.D., at p.7 ante is correct.

Sd/-

RHB.
9.7.

Office of the R.L.A.

The view taken by the R.D. at page 7 ante is correct.

Sd/-

17/2/44.

Remembrancer of Legal Affairs.

U.R.to R.D.,No.1282, dated the 17th February 1944.

RHB.
9.7.

Office of the R.L.A.

By G.R.H.D. (Pol.)A.R.P.,No.812-E, dated the 16th September 1942 Government agreed to purchase the workshop of Messrs.Ash Chem Auto Service Station at a price of Rs.15,500/-. The premises in which the said workshop is situated belonged to the Swadeshi Mills. The premises are held by Messrs. Ash Chem Auto Service under a lease dated the 7th December 1940 from the Mills for a term of three years from 1st September 1940 to 31st August 1943 on a monthly rental of Rs.500/-. As the Ash Chem Auto Service Station held the premises under a lease a proper deed of assignment in favour of Government was taken from them with the consent of the Swadeshi Mills. On 29th February 1944, Messrs. Ardeshir Hormusji Dinshw and Co., Solicitors on behalf of their clients the Swadeshi Mills gave a notice that the rent from 1st March 1944 for the premises occupied by the A.R.P. Transport Workshop should be paid to the Sterling Investment Corporation as the premises were sold to to them. The sale of the premises however did not affect the rights of Government under the lease (cf. Government Solicitors' No.2823, dated the 12th April 1943). On 29th August 1944, the same Solicitors on behalf of Messrs. Sterling Investment Corporation Ltd., the new owners of the premises, wrote to the A.R.P. Controller claiming from him quarterly premium of Rs.93-12-0 on account of War Risk Insurance which they have been asked to pay in consequence of Government using the same for purposes entailing War Risk Insurance. They further stated that the Ford Motor Co who are similarly occupying a portion of the above premises have agreed to pay to them Rs.[illegible]- per quarter being the amount of such premium. H.D.(A.R.P.) states that the lease which expired on 31st August 1943, has not yet been renewed

for a further period but steps will be taken to renew the lease separately. That Department is also of the view that since Government is not the owner of the property to be insured and since the workshop was a factory within the meaning of section 2(b) of the War Risk (Factories) Insurance Ordinance, 1942, even, before Government took it under lease in September 1942, Government cannot be held liable to anycontribution towards the premium for the premises occupied by it. F.D. to whom the papers were referred agrees with this view. The R.L.A. is requested to advise in the matter.

2. What the Solicitors of Messrs. Sterling Investment Corporation Ltd. appear to contend is that Government is liable to pay the premiums by reason of Government using the premises for purposes entailing War Risk Insurance. The original lease has expired and it has not yet been renewed; but Government is continuing in possession of the building on the terms of the original lease, none of which prohibits the use of the building for a purpose for which it is now being used; nor does any of them provide for the liability of the lessee to pay for any compulsory insurance of the kind as under the War Risks (Factories) Insurance Ordinance, 1942. Possibly the lessors may try to bring the present claim under clause (g) of the original lease dated 7-12-1940. That clause prohibits the use of premises for storing any hazardous goods which may invalidate any policy or policies of insurance effected by landlords or necessitate a higher premium than what is payble at present and further provides that if by such use any increase in the premium is required to be paid, such increase shall be payable by the tenants to the landlords and shall be recoverable as rent in arrears. In the present case there is no question of paying any higher premium. It is a question of an additional insurance under the Ordinance. Consequently clause (g) of the lease is not applicable.

3. In this case the lessor owns the factory buildings and the lessee owns the factory plant, etc. Therefore, both the lessor and the lessee appear to be owners under Ordinance XII of 1942, (see section 2(g)). Therefore, at first sight, both lessor and lessee are liable to pay the premium. But since Government is the lessee and since a factory belonging to the Crown is exempt from compulsory insurance, Government as lessee would not be liable to compulsory insurance for that part of the factory which belongs to it. There is nothing to indicate in the papers whether the premium which the lessor now claims includes insurance on that part of the factory belonging to Government. Whether the whole factory including the buildings could claim exemption under the Ordinance is a question which need not be considered now.

4. This seems to be a case for amicable settlement with the Company. There has been no renewal of the lease and Government is liable to be evicted unless the premises are requisitioned underx rule75-A of the Defence India Rules.

Id/- P.N.H.

28/9/44

Remembrancer of Legal Affairs.

U.R.to H.D.(A.R.P.),No.6745, dated the 29th September 1944.

RHB.
9.7.